

Remarks

Claims 1-11 are pending in the application.

Finality of the Action

The Action should not have been designated as final. The Office states, "Applicant's amendment necessitated the new ground(s) of rejection presented in the Office action." Applicants respectfully disagree. The Action presents a new ground of rejection with respect to claim 11 (the new ground being based on the combination including the Christensen et al. reference), but claim 11 is an original claim that was not amended by Applicants in the Amendment filed on March 14, 2006. The Office therefore introduced a new ground of rejection that was not necessitated by Applicant. (See, MPEP § 706.07(a), "Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement...") The finality of the Action therefore is improper and should be withdrawn.

Prior Art Status of Christensen et al. Reference

Claims 1-2 and 9-10 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Sloan, in view of Heidrich, and further in view of newly cited reference: Christensen et al., "Ray Differentials and Multiresolution Geometry Caching for Distribution Ray Tracing in Complex Scenes" [hereafter "Christensen"]. Claims 3-8 and 11 have been rejected under § 103(a) as being unpatentable over Sloan, Heidrich and Tong, also in view of Christensen. Applicants respectfully submit that the rejection is improper because Christensen does not qualify as prior art to the present application.

Christensen is a paper presented on September 5, 2003 at the Eurographics 2003 conference in Granada, Spain, and published in the proceedings of that conference. A copy of the Eurographics

conference agenda is attached.

Applicants submit herewith a Declaration Under 37 CFR § 1.131, which establishes that the inventors reduced the invention to practice well before the effective publication date of Christensen. As shown in the Declaration and accompanying exhibits, the inventors' prior conception and reduction to practice is evidenced by a paper presented by the inventors at SIGGRAPH 2003 in July, 2003. (The inventors' SIGGRAPH paper was not "by others" and not published more than a year before the filing date, and thus also is not a prior art publication.) Because the publication date of the Christensen reference was after the invention date of the present application, Christensen does not qualify as a prior art publication under 35 U.S.C. § 102(a) and therefore cannot be the basis of a § 103 rejection.

The § 131 Declaration is timely presented because the Christensen reference was first cited in the Action mailed April 25, 2006. See, MPEP § 715.09.

The rejections therefore should be withdrawn.

Conclusion

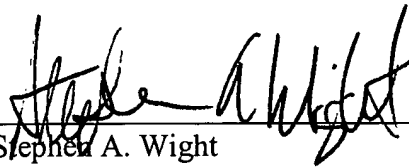
The application should now be in condition for allowance. Such action is respectfully solicited.

Respectfully submitted,

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**Annual Conference of the
European Association for Computer Graphics**



Eurographics 2003

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